



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/821,890 | 03/21/97 | COWAN | 60798 |

LM02/0721
FITCH EVEN TABIN & FLANNERY
135 SOUTH LASALLE STREET
SUITE 900
CHICAGO IL 60603-4277

| EXAMINER |
|----------|
|----------|

LE, U

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2711

DATE MAILED: 07/21/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
08/821,890

Applicant(s)

Cowan et al

Examiner

Uyen LeGroup Art Unit
2711

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 835 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 2711

DETAILED ACTION

Abstract

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections - 37 CFR 1.75

2. Claims 7-8 are objected to under 37 CFR 1.75 because of the following informality: on line 1 of claim 7, it appears that "claim 2" should be "claim 6". Note that claim 2 is not a method claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 9, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Eskin et al (US patent 4,331,973).

Regarding claim 1, Eskin discloses a consumer response analysis system including:

- a targetable television system including head end with means for selectively substituting signals and a plurality of television receivers for viewing by consumers (see Figure 1 and

Art Unit: 2711

column 5, lines 9-11). Since the system tracks responses of demographic zones, it is inherent that the receivers are connected to at least one of the preselected trunks in such a way as to represent the community for market research purposes

- a plurality of product sales collection units (see Figure 7 and column 5, lines 23-37); and
- a market research computer system 18 to study consumer behavior (see column 5, lines 38-58).

Regarding claim 2, Eskin discloses the concept of a controller apparatus in column 6, lines 3-32.

Regarding claim 9, Eskin discloses a television and analysis system including:

- a plurality of normal channel sources and a source of a substitute channel (see column 1, lines 23-31);
- signal distribution circuitry (see Figure 1);
- means for generating a plurality of substantially identical copies of the spectrum of channels and means for connecting substantially identical copies to different zones (see column 6, lines 16-24);
- a plurality of customer purchase data collectors 16 and data analysis computer system 18 (see Figure 1).

Art Unit: 2711

Regarding claim 20, Eskin discloses a plurality of first signal conductors each for conveying a single channel modulated normal television signal (see column 2, line 56-57), second signal conductors for conveying a single channel modulated substitute television signal (see column 2, lines 64-65), a switched combiner means 30 for selectively connecting signals to the distribution trunk 14 (see Figure 2).

Regarding claim 21, the switched combiner unit is met by element 30 providing signal to the distribution trunk 14 (see Figure 2).

Regarding claim 22, Eskin discloses a method for use in a consumer response analyzing system comprising apparatus for distributing television to a plurality of zones in a community of consumers and a market research computer system (see the abstract). Note:

- the step of identifying a consumer parameter is met when panelists are selected;
- the step of storing in the computer data relating panelist parameters and zones is met when the consumer's ID is scanned by the store scanner;
- the step of "presenting television programming ... second set of zones" is met when the operator of the system controls the television messages being received by the panelist (see column 2, lines 54-57);
- the step of "conducting a survey... consumer purchase data" is met when the panelists present

Art Unit: 2711

their ID to be scanned at the store;

- the step of "analyzing the survey...of substitute programming" is met when the data collected at stores are processed at the central processor 18 (see Figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-8, 10-13, 18-19, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eskin et al (US patent 4,331,973) provided by the applicant.

Regarding claim 3, the system of Eskin obviously has panelists distributed throughout a viewer community because their behavior in response to substituted signals in the main subject of interest in this system. Furthermore, it is common practice to split signals on distribution trunks into identical copies for distribution over fiber optic links. Thus it would have been obvious to use this practice in system taught by Eskin in order to distribute the same signals to multiple viewers economically.

Art Unit: 2711

Regarding claim 4, since the system is intended to gather information about buying behavior of panelists in a particular zone of survey, it would have been obvious to have a sales collection unit located in a store shopped predominately by consumers from one of the geographic areas as claimed.

Claims 5-8 are method claims of claim 1 and are thus rejected for the same reasons as discussed in claim 1.

Regarding claim 10, the system of Eskin tracks the behavior of subscribers exposed to substitute programs. Since the programs are distributed in a specific area, it would have been obvious to one of ordinary skill in the art to locate customer purchase data collector in a store a majority of whose purchasers are subscribers on one of the zones in order to receive accurate meaningful results for the survey.

Regarding claim 11, although Eskin does not show a distribution trunk connecting channels to zones separated by zones connected to other trunks, it would be obvious to one of ordinary skill in the art to do so in order to select panelists demographically because not all subscribers with the same demographic characteristics reside in the same zone served by the same trunk.

Art Unit: 2711

Regarding claim 12, the system of Eskin distributes substitute programs to selected subscribers thus it would have been obvious to one of ordinary skill in the art to select the zones connected to a distribution trunk in such a way that they demographically represent the community for market research purposes because this would facilitate distribution of specific advertisements to a targeted group of subscribers.

Regarding claim 13, although Eskin does not specifically show that connecting means are fiber optic, it would have been obvious to one of ordinary skill in the art to use such means because fiber optic is well known for its superior transmission characteristics such as immunity to noise and electromagnetic interference.

Regarding claims 23-25, the method taught by Eskin identifies panelists by their scanned ID at the store. Each bar code corresponds to a panelist receiving station which inherently contains other consumer parameters such as telephone number, address and name. Furthermore, it would have obvious that the information is stored in the market research computer as claimed for the purpose of identification in order to assess the effectiveness of substitution programs.

Regarding claim 18, it is well known in the art to use a video switch to selectively connect the input signals to a plurality of output ports. Besides it would be obvious that the signals at the

Art Unit: 2711

output ports are combined into a plurality of cable television channel spectrums equal to the number of distribution trunks through related circuitry. Thus it would have been obvious to one of ordinary skill in the art to modify the system taught by Eskin to include a video switch and related circuitry for combining the signals as claimed for the purpose of controlling routing of the normal and substitute signals to intended viewers.

Regarding claim 19, it is well known in the art to use channel modulators connected to outputs of video switches as claimed. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Eskin by adding channel modulators each connected to an output of the video switch in order to modulate signals to frequencies appropriate for respective cable television channels.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eskin et al (US patent 4,331,973) further in view of Oberle et al (US Patent 5,389,964) provided by the applicant.

Regarding claim 14, Eskin does not show a number of combiners as claimed even though the concept of distribution trunks with first channel modulated normal signals and second channel modulated signals including normal and at least one substitute signal is illustrated (see column 2, lines 36-63). Oberle, in the same field of endeavor, discloses combiners in an apparatus for

Art Unit: 2711

broadcasting channel substitution (see column 4, lines 32-36 and Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Eskin by adding combiners as taught by Oberle in order to combine the received programs into channels compatible with the transmission and reception of cable television signals. Besides, it would have been obvious that different trunks would require different combiners, thus the number of combiners should be equal to the number of distribution trunks in order to have full control over what signals to send for each trunk.

Regarding claim 15, Eskin discloses the concept of distinct signals (see column 2, lines 40-41).

Regarding claims 16 and 18, it is well known in the art to use a video switch to selectively connect the input signals to a plurality of output ports. Besides it would be obvious that the signals at the output ports are combined into a plurality of cable television channel spectrums equal to the number of distribution trunks through related circuitry. Thus it would have been obvious to one of ordinary skill in the art to modify the system taught by Eskin to include a video switch and related circuitry for combining the signals as claimed for the purpose of controlling routing of the normal and substitute signals to intended viewers.

Regarding claims 17 and 19, it is well known in the art to use channel modulators connected to

Art Unit: 2711

outputs of video switches as claimed. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Eskin by adding channel modulators each connected to an output of the video switch in order to modulate signals to frequencies appropriate for respective cable television channels. Furthermore, it would be obvious that having a number of modulators equal to the number of distribution trunks for each channel of the second channel modulated signal would make controlling substitute signals more effective.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen Le whose telephone number is (703) 305-4134. The examiner can be reached on Monday through Thursday from 7:00am to 4:30pm. The examiner can also be reached on alternate Fridays from 7:00am to 3:30pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703)305-4380.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

(703)308-9051, (for formal communications intended for entry)

Serial Number: 08/821,890

Page 11

Art Unit: 2711

or:

(703)308-5399 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone is (703)305-3900.

UL

July 18, 1998


ANDREW I. FAILE
SUPERVISORY PATENT EXAMINER
GROUP 2700